

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

BARBARA G. WRIGHT	§	
	§	
Plaintiff,	§	
v.	§	Civil Action No. 1:17-CV-380
	§	
LIBERTY MUTUAL INSURANCE	§	
COMPANY AND AARON BERKOWITZ	§	(JURY)
	§	
Defendants.	§	

AGREED MOTION FOR REMAND

Defendants Liberty Insurance Corporation (incorrectly named as “Liberty Mutual Insurance Company”) (“Liberty”) and Aaron Berkowitz (“Berkowitz”) (collectively, “Defendants”) and Plaintiff Barbara G. Wright (“Plaintiff”) respectfully request that the Court remand this case back to the 163rd District Court of Orange County, Texas. Defendants initially removed this case from state court to this Court on or about September 8, 2017, on the basis of diversity jurisdiction, arguing that complete diversity under 28 U.S.C. § 1332 existed because Plaintiff is a citizen of the State of Texas, and Liberty is a corporation organized under the laws of the State of Massachusetts with its principal place of business located in Boston. Defendants further maintained Berkowitz was improperly joined to this lawsuit because Plaintiff’s petition contains insufficient factual allegations to support a cause of action against him, and therefore, his citizenship should be disregarded for diversity purposes.

On November 15, 2017, the parties executed an Agreement pursuant to Rule 11 of the Texas Rules of Civil Procedure (a true and correct copy of which is attached hereto as “Exhibit A”), in which Plaintiff stipulated to damages of no more than \$75,000.00, exclusive of pre- and

post-judgment interest, in this case. Plaintiff further agreed to dismiss Berkowitz as a defendant in this lawsuit with prejudice. In exchange, Liberty agreed to remand this case back to state court. Accordingly, in view of the parties' Rule 11 Agreement, the parties jointly request that this case be remanded to the 163rd District Court of Orange County, Texas.

WHEREFORE, Defendants Liberty Insurance Corporation (incorrectly named as "Liberty Mutual Insurance Company") and Aaron Berkowitz, and Plaintiff Barbara G. Wright respectfully request that this Court remand this matter to the 163rd District Court of Orange County, Texas.

Respectfully submitted,

SHEEHY, WARE & PAPPAS, P.C.

By: /s/ *J. Mark Kressenberg*

J. Mark Kressenberg (Attorney-in-Charge)

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**ATTORNEYS FOR THE DEFENDANTS
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By: /s/ *Jason M. Byrd* ** By Permission

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**ATTORNEYS FOR THE PLAINTIFF
BARBARA G. WRIGHT**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above foregoing instrument has been forwarded via certified mail, return receipt requested, messenger delivery, e-filing, or facsimile transmission on November 17, 2017 to the following counsel of record:

Jason M. Byrd
THE BYRD LAW FIRM, P.C.
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Beaumont, TX 77701

/s/ *J. Mark Kressenberg*
J. Mark Kressenberg